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Attorneys for Defendant
MARC DAVIS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff,

v.

MARC DAVIS,

Defendants.

No. 1:21-cr-00206-DAD-BAM

**STIPULATION TO VACATE
EVIDENTIARY HEARING; DEFENDANT'S
MOTION TO WITHDRAW MOTIONS TO
SUPPRESS AND TO DISMISS
INDICTMENT; ORDER**

Date: December 1, 2022

Time: 8:30 a.m.

Court: Hon. Ana de Alba

BACKGROUND

This case is set for an evidentiary hearing on December 1, 2022 at 8:30 a.m. on Mr. Davis's Motion to Suppress Out-of-Court and In-Court Identifications (ECF No. 39) and his Motion to Dismiss the Indictment (ECF No. 41). For the reasons provided herein, the parties stipulate to vacating the evidentiary hearing, and Mr. Davis moves to withdraw both Motions.

STIPULATION

IT IS HEREBY STIPULATED, by and between the parties through their respective counsel of record, as follows:

1. By previous order, this case was set for an evidentiary hearing on December 1, 2022 at 8:30 a.m. on Mr. Davis's Motion to Suppress Out-of-Court and In-Court

1 Identifications (ECF No. 39) and Motion to Dismiss the Indictment (ECF No. 41).

2 2. As to Mr. Davis's Motion to Suppress Out-of-Court and In-Court Identifications
3 (ECF No. 39), the government agrees that if this case proceeds to trial, it will not seek
4 to use any eyewitness identifications made by A.G. or R.M. in its case in chief. In
5 light of this agreement, this Motion is moot.

6 3. As to Mr. Davis's Motion to Dismiss the Indictment (ECF No. 41), following the
7 filing of that Motion, the government provided additional discovery prompting Mr.
8 Davis to withdraw that Motion.

9 In light of the foregoing, the parties stipulate that the evidentiary hearing on both Motions
10 set for December 1, 2022 at 8:30 a.m. be vacated.

11 The parties further stipulate to setting this case for a status conference before the
12 Honorable Barbara A. McAuliffe on December 14, 2022 and excluding time to and including
13 that date pursuant to 18 U.S.C. § 3161(h)(7)(A), (B)(iv).

14 IT IS SO STIPULATED.

15
16 Dated: November 16, 2022

HEATHER E. WILLIAMS
Federal Defender

17
18 /s/ Jaya C. Gupta
JAYA C. GUPTA
Attorneys for Defendant
19 MARC DAVIS

20
21 Dated: November 16, 2022

PHILLIP A. TALBERT
United States Attorney

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23 /s/ Kimberly A. Sanchez
KIMBERLY A. SANCHEZ
24 Assistant United States Attorney

MOTION TO WITHDRAW

Given the foregoing stipulation, Marc Davis, by and through his counsel of record, hereby moves to withdraw his Motion to Suppress Out-of-Court and In-Court Identifications (ECF No. 39) and Motion to Dismiss the Indictment (ECF No. 41) on the grounds stated herein.

Dated: November 16, 2022

HEATHER E. WILLIAMS
Federal Defender

/s/ Jaya C. Gupta
JAYA C. GUPTA
Attorneys for Defendant
MARC DAVIS

ORDER

IT IS HEREBY ORDERED THAT the evidentiary hearing on Mr. Davis's Motion to Suppress Out-of-Court and In-Court Identifications (ECF No. 39) and Motion to Dismiss the Indictment (ECF No. 41) set for December 1, 2022 at 8:30 a.m. before the Honorable Ana de Alba is vacated. A status conference before the Honorable Barbara A. McAuliffe is set for December 14, 2022. Time to and including December 14, 2022 is hereby excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), (B)(iv).

IT IS FURTHER ORDERED THAT Mr. Davis's Motion to Withdraw his Motion to Suppress (ECF No. 39) and Motion to Dismiss the Indictment (ECF No. 41) is granted and both Motions are so withdrawn.

IT IS SO ORDERED.

Dated: November 18, 2022


UNITED STATES DISTRICT JUDGE